



New South Wales

State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

BRAD HAZZARD, MP
Minister for Planning and Infrastructure

State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Development) Amendment (UTS Ku-ring-gai Campus and Wahroonga Estate) 2012*.

2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

3 Maps

Each map adopted by *State Environmental Planning Policy (Major Development) 2005* that is specified in Column 1 of the following table is declared by this Policy to be amended or replaced, as the case requires, by the map specified opposite in Column 2 of the table as approved by the Minister on the making of this Policy:

Column 1	Column 2
Name of map being amended or replaced	Name of amending or replacement map
State Environmental Planning Policy (Major Development) 2005 Wahroonga Estate Height of Buildings Map (SEPP_MD_WER_HOB_001_20091029)	State Environmental Planning Policy (Major Development) 2005 Wahroonga Estate Height of Buildings Map (SEPP_MD_WER_HOB_001_20120821)
State Environmental Planning Policy (Major Development) 2005 Wahroonga Estate Land Application Map (SEPP_MD_WER_LAP_001_20091029)	State Environmental Planning Policy (Major Development) 2005 Wahroonga Estate Land Application Map (SEPP_MD_WER_LAP_001_20120821)

Column 1	Column 2
Name of map being amended or replaced	Name of amending or replacement map
State Environmental Planning Policy (Major Development) 2005 Wahroonga Estate Land Zoning Map (SEPP_MD_WER_LZN_001_20091 029)	State Environmental Planning Policy (Major Development) 2005 Wahroonga Estate Land Zoning Map (SEPP_MD_WER_LZN_001_20120 821)

4 Repeal of Policy

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5 (6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

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State Environmental Planning Policy (Major Development) Amendment
(UTS Ku-ring-gai Campus and Wahroonga Estate) 2012

Schedule 1 Amendment of State Environmental Planning Policy (Major
Development) 2005

Schedule 1 Amendment of State Environmental Planning Policy (Major Development) 2005

[1] Schedule 3 State significant sites

Omit the definitions of *Gross Floor Area Map*, *heritage item*, *Heritage Map*, *place of Aboriginal heritage significance* and *relevant council* from clause 2 (1) in Part 25.

[2] Schedule 3, Part 25

Omit clause 3. Insert instead:

3 Consent authority

The consent authority for development on land within the Wahroonga Estate site is Hornsby Council.

[3] Schedule 3, Part 25

Omit clause 6. Insert instead:

6 Application of Division

This Division applies to development on land within the Wahroonga Estate site.

[4] Schedule 3, Part 25, clauses 16, 20, 23 (7) (including the note) and 24

Omit the provisions.

[5] Schedule 3, Part 25

Omit clause 18. Insert instead:

18 Height restrictions

The height of a building on any land within the Wahroonga Estate site is not to exceed the maximum height shown for the land on the Height of Buildings Map.

[6] Schedule 3, Part 25

Omit “—**other development**” from the heading to clause 21.

[7] Schedule 3, Part 25, clause 21 (1)

Omit the subclause.

[8] Schedule 3, Part 25

Omit “the relevant council” from clause 23 (3) (b) and (4)–(6) wherever occurring.

Insert instead “Hornsby Council”.

[9] Schedule 3, Part 30

Omit the Part.

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Schedule 2 Amendment of Ku-ring-gai Planning Scheme Ordinance

Schedule 2 Amendment of Ku-ring-gai Planning Scheme Ordinance

Parts IIIC and IIID

Insert after Part IIIB:

Part IIIC Wahroonga Estate site

Division 1 Preliminary

25Y Application of Part

- (1) This Part applies to the land identified on the Land Application Map, referred to in this Part as the *Wahroonga Estate site*.
- (2) No other provisions of this Ordinance apply to the Wahroonga Estate site.

25Z Interpretation

- (1) In this Part:
consent authority has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.

Gross Floor Area Map means the “Ku-ring-gai Planning Scheme Ordinance—Wahroonga Estate Gross Floor Area Map” deposited in the office of the Council.

Height of Buildings Map means the “Ku-ring-gai Planning Scheme Ordinance—Wahroonga Estate Height of Buildings Map” deposited in the office of the Council.

heritage item means a building, work, archaeological site, tree or place:

- (a) shown on the Heritage Map as a heritage item, and
- (b) the location and nature of which is described in the Table to clause 26R (8).

Heritage Map means the “Ku-ring-gai Planning Scheme Ordinance—Wahroonga Estate Heritage Map” deposited in the office of the Council.

Land Application Map means the “Ku-ring-gai Planning Scheme Ordinance—Wahroonga Estate Land Application Map” deposited in the office of the Council.

Land Zoning Map means the “Ku-ring-gai Council Planning Scheme Ordinance—Wahroonga Estate Land Zoning Map” deposited in the office of the Council.

place of Aboriginal heritage significance means an area of land, the general location of which is identified in an Aboriginal heritage study adopted by the Council after public exhibition (whether before or after the commencement of this Part) and that may be shown on the Heritage Map, that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It may (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
 - (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.
- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*) unless it is otherwise defined in this Part.

26A Application of SEPPs

This Part is subject to the provisions of all State environmental planning policies other than *State Environmental Planning Policy No 1—Development Standards*.

**Division 2 Provisions relating to development in
Wahroonga Estate site**

26B Land use zones

For the purposes of this Part, land within the Wahroonga Estate site is in one of the following zones if the land is shown on the Land Zoning Map as being within that zone:

- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone R3 Medium Density Residential,
- (d) Zone R4 High Density Residential,
- (e) Zone B1 Neighbourhood Centre,

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- (f) Zone SP1 Special Activities,
- (g) Zone E2 Environmental Conservation.

26C Objectives of land use zones to be taken into account

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

26D Zone R1 General Residential

- (1) The objectives of Zone R1 General Residential are as follows:
 - (a) to provide for the housing needs of the community,
 - (b) to provide for a variety of housing types and densities,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R1 General Residential:
home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential:
attached dwellings; boarding houses; child care centres; community facilities; dwelling houses; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; residential flat buildings; respite day care centres; roads; semi-detached dwellings; seniors housing; shop top housing.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R1 General Residential unless it is permitted by subclause (2) or (3).

26E Zone R2 Low Density Residential

- (1) The objectives of Zone R2 Low Density Residential are as follows:
 - (a) to provide for the housing needs of the community within a low density residential environment,
 - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
 - (c) to ensure that housing is compatible with the existing environmental character of the area.

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- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential:
home-based child care; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential:
bed and breakfast accommodation; boarding houses; child care centres; community facilities; dual occupancies; dwelling houses; educational establishments; environmental protection works; health consulting rooms; home businesses; home industries; neighbourhood shops; places of public worship; recreation areas; respite day care centres; roads; secondary dwellings; seniors housing; signage.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

26F Zone R3 Medium Density Residential

- (1) The objectives of Zone R3 Medium Density Residential are as follows:
- (a) to provide for the housing needs of the community within a medium density residential environment,
 - (b) to provide a variety of housing types within a medium density residential environment,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R3 Medium Density Residential:
home-based child care; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R3 Medium Density Residential:
attached dwellings; bed and breakfast accommodation; boarding houses; child care centres; community facilities; dual occupancies; dwelling houses; educational establishments; environmental protection works; group homes; home businesses; home industries; hostels; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; respite day care

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centres; roads; secondary dwellings; semi-detached dwellings;
seniors housing.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R3 Medium Density Residential unless it is permitted by subclause (2) or (3).

26G Zone R4 High Density Residential

- (1) The objectives of Zone R4 High Density Residential are as follows:

- (a) to provide for the housing needs of the community within a high density residential environment,
- (b) to provide a variety of housing types within a high density residential environment,
- (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone R4 High Density Residential:

home occupations.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R4 High Density Residential:

bed and breakfast accommodation; boarding houses; child care centres; community facilities; dwelling houses; educational establishments; environmental protection works; group homes; health consulting rooms; home businesses; home industries; hostels; medical centres; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; residential flat buildings; respite day care centres; roads; seniors housing; serviced apartments; shop top housing.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R4 High Density Residential unless it is permitted by subclause (2) or (3).

26H Zone B1 Neighbourhood Centre

- (1) The objective of Zone B1 Neighbourhood Centre is to provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.

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- (2) Development for any of the following purposes is permitted without development consent on land within Zone B1 Neighbourhood Centre:
home occupations.
 - (3) Development for any of the following purposes is permitted only with development consent on land within Zone B1 Neighbourhood Centre:
business premises; car parks; child care centres; community facilities; environmental protection works; food and drink premises (other than pubs); office premises; places of public worship; public administration buildings; respite day care centres; roads; shop top housing; shops; signage; veterinary hospitals.
 - (4) Except as otherwise provided by this Part, development is prohibited on land within Zone B1 Neighbourhood Centre unless it is permitted by subclause (2) or (3).

26I Zone SP1 Special Activities

- (1) The objectives of Zone SP1 Special Activities are as follows:
 - (a) to provide for special land uses that are not provided for in other zones,
 - (b) to provide for sites with special natural characteristics that are not provided for in other zones,
 - (c) to facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone SP1 Special Activities:
nil.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone SP1 Special Activities:
roads; the purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone SP1 Special Activities unless it is permitted by subclause (2) or (3).

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26J Zone E2 Environmental Conservation

- (1) The objectives of Zone E2 Environmental Conservation are as follows:
 - (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
 - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation:
environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation:
environmental facilities.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone E2 Environmental Conservation unless it is permitted by subclause (2) or (3).

26K Prohibited development

Development on land within the Wahroonga Estate site that is part of a transitional Part 3A project is prohibited if it would be prohibited were it development to which Part 4 of the Act applies.

26L Subdivision—consent requirements

- (1) Land within the Wahroonga Estate site may be subdivided, but only with development consent.
- (2) However, development consent is not required for a subdivision for the purpose only of any one or more of the following:
 - (a) widening a public road,
 - (b) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
 - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (d) rectifying an encroachment on a lot,
 - (e) creating a public reserve,
 - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire

brigade or other emergency service purposes or public
toilets.

26M Height and gross floor area restrictions

- (1) The height of a building on any land within the Wahroonga Estate site is not to exceed the maximum height shown for the land on the Height of Buildings Map.
- (2) The total gross floor area of all buildings (excluding the floor area of dwellings) within a precinct must not exceed the gross floor area shown for the precinct on the Gross Floor Area Map.
- (3) For the purposes of subclause (2), a precinct is an area within the Wahroonga Estate site shown by distinctive colouring on the Gross Floor Area Map.
- (4) This clause does not apply to a transitional Part 3A project to the extent to which an approval for a concept plan for the project provides for a building or buildings that exceeds or exceed the height or gross floor area restrictions, or both, set out in subclauses (1) and (2).

26N Maximum number of dwellings

A person must not erect a dwelling on land within the Wahroonga Estate site if, as a result, the number of dwellings within that site would exceed 500.

26O Exceptions to development standards

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to

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justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone SP1 Special Activities or Zone E2 Environmental Conservation.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (4).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,

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- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated.

26P Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

Note. The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

26Q Preservation of trees or vegetation

- (1) The objective of this clause is to preserve the amenity of the Wahroonga Estate site through the preservation of trees.
- (2) This clause applies to a tree that meets the criteria set out under the heading “What is a tree under this Order?” in the tree preservation order made under clause 42 of this Ordinance and adopted by the Ku-ring-gai Council on 12 December 2006, but does not apply to a tree of a species described as an exempt tree species in that order.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree to which this clause applies on the Wahroonga Estate site without the authority conferred by:
 - (a) development consent, or
 - (b) a permit granted by the Council.
- (4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This clause does not apply to a tree that the Council is satisfied is a risk to human life or property.
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree that is or forms part of a heritage item.

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 26T will be applicable to any such consent.

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- (8) This clause does not apply to or in respect of:
- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
 - (b) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
 - (c) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

26R Heritage conservation

(1) **Objectives**

The objectives of this clause are:

- (a) to conserve the environmental heritage of the Wahroonga Estate site, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve places of Aboriginal heritage significance.

(2) **Requirement for consent**

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item,
- (b) altering a heritage item, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,
- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located,
- (g) subdividing land on which a heritage item is located.

(3) When consent not required

However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature, or is for the maintenance of the heritage item or archaeological site, and
 - (ii) would not adversely affect the significance of the heritage item or archaeological site, or
- (b) the development is limited to the removal of a tree or other vegetation that the consent authority is satisfied is a risk to human life or property, or
- (c) the development is exempt development.

(4) Effect on heritage significance

The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item concerned.

(5) Heritage impact assessment

The consent authority may, before granting consent to any development on land:

- (a) on which a heritage item is situated, or
- (b) within the vicinity of land on which a heritage item is situated,

require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item concerned.

(6) Places of Aboriginal heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
- (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into

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consideration any response received within 28 days after the notice is sent.

(7) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Part, if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

(8) For the purposes of paragraph (b) of the definition of *heritage item* in clause 2 (1), the location and nature of a heritage item is specified in the following Table:

Table—heritage items

Item description	Address	Property description
Administrative headquarters, Seventh Day Adventist Church	148 Fox Valley Road, Wahroonga	Lot 621, DP 1128314

26S Earthworks

(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

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- (2) Development consent is required for earthworks unless:
- (a) the earthworks are exempt development under any applicable environmental planning instrument, or
 - (b) the earthworks are ancillary to development that is permitted without consent under this Part or to development for which development consent has been given.
- (3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:
- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
 - (b) the effect of the development on the likely future use or redevelopment of the land,
 - (c) the quality of the fill or the soil to be excavated, or both,
 - (d) the effect of the development on the existing and likely amenity of adjoining properties,
 - (e) the source of any fill material and the destination of any excavated material,
 - (f) the likelihood of disturbing relics,
 - (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
 - (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Note. The *National Parks and Wildlife Act 1974*, particularly section 86, deals with harming Aboriginal objects.

26T Public utility infrastructure

- (1) Development consent must not be granted for development on land within the Wahroonga Estate site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

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- (3) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
- (a) the supply of water,
 - (b) the supply of electricity or gas,
 - (c) the disposal and management of sewage.

26U Infrastructure development and use of existing buildings of the Crown

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

26V Temporary use of land

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Part, development consent may be granted for development on land within the Wahroonga Estate site in any zone for a temporary purpose for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
- (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Part and any other applicable environmental planning instrument, and
 - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and

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- (d) at the end of the temporary use period the site will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
 - (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or housing estate may exceed 52 days (whether or not consecutive days) in any period of 12 months.
 - (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

Part IIID UTS Ku-ring-gai Campus site

Division 1 Preliminary

26W Application of Part

- (1) This Part applies to the land identified on the Land Application Map, referred to in this Part as the *UTS Ku-ring-gai Campus site*.
- (2) No other provisions of this Ordinance apply to the UTS Ku-ring-gai Campus site.

26X Interpretation

- (1) In this Part:
 - consent authority* has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*.
 - Height of Buildings Map* means the “Ku-ring-gai Planning Scheme Ordinance—UTS Ku-ring-gai Campus Height of Buildings Map” deposited in the office of the Council.
 - Heritage Map* means the “Ku-ring-gai Planning Scheme Ordinance—UTS Ku-ring-gai Campus Heritage Map” deposited in the office of the Council.
 - Land Application Map* means the “Ku-ring-gai Planning Scheme Ordinance—UTS Ku-ring-gai Campus Land Application Map” deposited in the office of the Council.
 - Land Zoning Map* means the “Ku-ring-gai Planning Scheme Ordinance—UTS Ku-ring-gai Campus Land Zoning Map” deposited in the office of the Council.
- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* (as in force immediately before the commencement of the *Standard*

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Instrument (Local Environmental Plans) Amendment Order 2011) unless it is otherwise defined in this Part.

26Y Application of SEPPs

This Part is subject to the provisions of all State environmental planning policies other than *State Environmental Planning Policy No 1—Development Standards*.

Division 2 Provisions applying to development within UTS Ku-ring-gai Campus site

26Z Application of Part

This Part applies with respect to development within the UTS Ku-ring-gai Campus site.

26ZA Land use zones

- (1) For the purposes of this Part, land within the UTS Ku-ring-gai Campus site is in a zone as follows if the land is shown on the Land Zoning Map as being within that zone:
 - (a) Zone R1 General Residential,
 - (b) Zone R2 Low Density Residential,
 - (c) Zone B4 Mixed Use,
 - (d) Zone RE1 Public Recreation,
 - (e) Zone E1 National Parks and Nature Reserves,
 - (f) Zone E3 Environmental Management.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

26ZB Zone R1 General Residential

- (1) The objectives of Zone R1 Residential are as follows:
 - (a) to provide for the housing needs of the community,
 - (b) to provide for a variety of housing types and densities,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
 - (d) to provide for development that is compatible with the environmental and heritage qualities of the locality,

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- (e) to promote a high standard of urban and architectural design of development,
 - (f) to promote the establishment of a sustainable community.
- (2) Development for any of the following purposes is permitted without consent in Zone R1 General Residential:
home occupations; roads.
- (3) Development for any of the following purposes is permitted only with development consent in Zone R1 General Residential:
attached dwellings; boarding houses; child care centres; community facilities; dwelling houses; educational facilities; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; recreational facilities (indoor); residential flat buildings; residential care facilities; respite day care centres; semi-detached dwellings; seniors housing; shop top housing.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R1 General Residential unless it is permitted by subclause (2) or (3).

26ZC Zone R2 Low Density Residential

- (1) The objectives of Zone R2 Low Density Residential are as follows:
- (a) to provide for the housing needs of the community within a low density residential environment,
 - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without consent in Zone R2 Low Density Residential:
home occupations; roads.
- (3) Development for any of the following purposes is permitted only with development consent in Zone R2 Low Density Residential:
dwelling houses; group homes.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

26ZD Zone B4 Mixed Use

- (1) The objectives of Zone B4 Mixed Use are as follows:
- (a) to provide a mixture of compatible land uses,

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- (b) to integrate suitable business, office, residential, retail and other development so as to maximise public transport patronage and encourage walking and cycling and without adversely impacting on heritage items.
- (2) Development for any of the following purposes is permitted only with development consent in Zone B4 Mixed Use:
boarding houses; business premises; child care centres; community facilities; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information and education facilities; kiosks; neighbourhood shops; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; respite day care centres; retail premises; roads; seniors housing; shop top housing.
- (3) Except as otherwise provided by this Part, development is prohibited on land within Zone B4 Mixed Use unless it is permitted by subclause (2).

26ZE Zone RE1 Public Recreation

- (1) The objectives of Zone RE1 Public Recreation are as follows:
 - (a) to enable land to be used for public open space or recreational purposes,
 - (b) to provide a range of recreational settings and activities and compatible land uses,
 - (c) to protect and enhance the natural environment for recreational purposes.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation:
car parks; roads.
- (3) Development for any of the following purposes is permitted only with development consent in Zone RE1 Public Recreation:
community facilities; kiosks; recreation areas.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2) or (3).

26ZF Zone E1 National Parks and Nature Reserves

- (1) The objectives of Zone E1 National Parks and Nature Reserves are as follows:
 - (a) to enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act,
 - (b) to enable uses authorised under the *National Parks and Wildlife Act 1974*,
 - (c) to identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and to protect the environmental significance of that land.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E1 National Parks and Nature Reserves:
uses authorised under the *National Parks and Wildlife Act 1974*.
- (3) Except as otherwise provided by this Part, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2).

26ZG Zone E3 Environmental Management

- (1) The objectives of Zone E3 Environmental Management are as follows:
 - (a) to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values,
 - (b) to provide for a limited range of development that does not have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E3 Environmental Management:
environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management:
dwelling houses; roads.
- (4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone E3 Environmental Management:
industries; multi dwelling housing; residential flat buildings; retail premises; seniors housing; service stations; warehouse or

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distribution centres; any other development not specified in subclause (2) or (3).

26ZH Subdivision—consent requirements

Land within the UTS Ku-ring-gai Campus site may be subdivided, but only with development consent.

26ZI Demolition requires development consent

The demolition of a building or work on land within the UTS Ku-ring-gai Campus site may be carried out only with development consent.

26ZJ Public utility undertakings excepted

Development for the purpose of a public utility undertaking that is carried out on land within the UTS Ku-ring-gai Campus site does not require development consent.

26ZK Exceptions to development standards

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

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- (4) Consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (7) This clause does not allow consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated.

26ZL Height of buildings

- (1) The objectives of this clause are as follows:
- (a) to protect the heritage significance of the UTS Ku-ring-gai Campus main building,

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- (b) to protect the views to the UTS Ku-ring-gai Campus main building.
- (2) The height of a building on any land within the UTS Ku-ring-gai Campus site is not to exceed the maximum height shown for the land on the Height of Buildings Map.

26ZM Interim land use for exhibition and sales office

- (1) Despite any other provision of this Part, development consent may be granted for development on land in Zone RE1 Public Recreation for an exhibition and sales office for a maximum period of 4 years from the date of consent.
- (2) Development consent must not be granted unless the consent authority is satisfied that:
 - (a) the use will not prejudice the subsequent carrying out of development on the land in accordance with this Part and any other applicable environmental planning instrument, and
 - (b) the use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the use and location of any structures related to the use will not adversely impact on environmental attributes, heritage significance, or features of the land, or increase the risk of natural hazards that may affect the land.
- (3) In this clause, *exhibition and sales office* means a building or place, used for house, apartment and land sales, site offices, advisory services, car parking and other associated purposes.

26ZN Maximum number of dwellings

The consent authority must not grant development consent for the erection of a dwelling on land within the UTS Ku-ring-gai Campus site if the number of dwellings within that site would exceed 345.

26ZO Controls relating to miscellaneous permissible uses

- (1) **Kiosks**
If development for the purposes of a kiosk is permitted under this Part, the gross floor area must not exceed 40 square metres.
- (2) **Neighbourhood shops**
If development for the purposes of a neighbourhood shop is permitted under this Part, the gross floor area must not exceed 80 square metres.

(3) **Retail premises**

If development for the purposes of retail premises is permitted under this Part, the gross floor area must not exceed 80 square metres.

26ZP Heritage conservation

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
- (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
 - (b) damage or remove the relic, or
 - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
 - (d) damage or despoil the tree or place, or
 - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
 - (f) damage any tree or land on which the building, work or relic is situated or on the land which comprises the place, or
 - (g) make structural changes to the interior of the building or work,
- except with the consent of the consent authority.
- (2) The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Part, if the consent authority is satisfied that:
- (a) the conservation of the heritage item is facilitated by the granting of consent, and
 - (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
 - (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
 - (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and

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- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.
- (3) Consent is not required under this clause if the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (a) is of a minor nature, or is for the maintenance of the heritage item, and
 - (b) would not adversely affect the significance of the heritage item.
- (4) In this clause, *heritage item* means the building known as the UTS Ku-ring-gai Campus main building, including the gymnasium and footbridge, as shown on the Heritage Map.

26ZQ Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

Note. The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

26ZR Infrastructure development and the use of existing buildings of the Crown

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.